

The Gazette of India

EXTRAORDINARY

PART I—Section 1

PUBLISHED BY AUTHORITY

No. 432] NEW DELHI, MONDAY, OCTOBER 20, 1952

ELECTION COMMISSION, INDIA

ELECTION TRIBUNAL, FAIZABAD

NOTIFICATION

Faizabad, the 14th October, 1952

No. 19/267/52-Elec. III.—In pursuance of the provisions of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition, presented under section 81 thereof, is published for information.

D. N. ROY, Chairman.

ELECTION PETITION No. 321 of 1952.

To

The Election Commission of India, New Delhi.

Shrimati Shanta Devi Vaidya, wife of Shri Krishan Bihari Vaid, resident of House No. 2, Hasanganj Sarai, Lucknow.

Petitioner.

Versus

1. Shri Bashir Husain Zaidi, (1) 16 Civil Lines, Ward No. 10, Moh. No. 191 Civil Lines, Rampur, District Rampur (2) Bhagwan-das Road, New Delhi.

2. Shri Bulaqi Ram, House No. 479, Moh. Sarai-thok, Ward No. 3, Hardoi.

3. Shri Indrajit Singh Rajapasi, House No. 259, Alamnagar, P.O. Bihani, Distt. Hardoi.

4. Shri Kishan Chand Furl, House No. 104, Windsor Palace, Hazratganj, Lucknow.

5. Shri Gajraj Bahadur, House No. 175, White Gunj, Hardoi, P. O. Hardoi.

6. Shri Chokhey, Village Nagaria Chikan, Teh. Dataganj, Distt. Badaun.

7. Shri Niranjan Singh Dev, Village Nir, P. O. Nir, Distt. Hardoi.

8. Shri Prakash Narain Mukhtar, Sadar Bazar, Shahjahan-pore.

9. Shri Munishwar Bakhsh Singh, Village Hia, P. O. Behdar, Per. & Teh. Sandila, District Hardoi.

10. Shri Ram Ratan Gupta, No. 20/204 Chatla Mohal, Ram-narain Bazar, Pethkapur, Kanpur.

11. Shri Ram Swarup Gupta, Village Barhpura, Teh. and District Farrukhabad.

Respondents.

12. Shri Moti Shanta Vaidya, House No. 2, Hasangunj Sarai, Ward Hasanganj, Lucknow.
13. Shri Hira Lal, Village Jalalpore, Parg. & P.O. Bilgram, District Hardoi.
14. Shri Sundar Lal Ji, Civil Lines. Hardoi.
15. Shri Ram Nath, Vil. Bhata Chand, Hardoi.
16. Shri Chidda Lal, White Gunj, Hardoi.
17. Shri Ram Sewak, Sarai Thok, Hardoi.

} Respondents.

Election petition under section 81 of the Representation of Peoples Act 1951 read with Rule 119(f) of the Representation of Peoples (Conduct of Election and Election Petitions) Rules, 1951.

The petitioner respectfully states as follows:—

1. That the petitioner was a candidate for election to the House of the People from Hardoi District (North-West)—*cum*—Farrukhabad District (East)—*cum*—Shahjahanpur District (South) the Constituency No. 36 and petitioner's number as a candidate was 12; from this constituency two candidates were to be elected, out of which one seat was reserved for a scheduled caste candidate.

2. That besides the petitioner there were sixteen more candidates for election who have been shown as respondents in this petition. Four of the respondents shown in this petition, respondents Nos. 14, 15, 16 and 17 had withdrawn the candidature within the time prescribed.

3. That out of the candidates who contested the election the respondents No. 1 and No. 2 were declared elected on the 21st February 1952 by the Returning Officer concerned as a result of counting done by him and their names as returned candidates from the aforesaid constituency were published in the Government of India Gazette dated the 2nd April 1952 and that their returns of election expenses and the declaration in respect thereof were lodged with the Returning Officer concerned on the 10th April 1952 and 9th April 1952 respectively.

4. That the aforesaid election was not a free and fair election by reason of corrupt and illegal practices as defined u/s. 123 (1), (2), (3), (4), (5), (6), (7) and (8), u/s 124 (1), (2), (3), (4), (5), (6) & u/s. 125 (1), utter disregard of the election law and rules and material irregularities which extensively prevailed at the aforesaid election as hereinafter stated, which materially affected the result of the election.

5. That the result of the aforesaid election was also materially affected by the improper acceptance of the nomination papers of some of the respondents and in particular those of the respondent No. 1 who was not even in India at the time his name was proposed and seconded and when he was not in a position to sign his nomination papers and to make a valid declaration as to his agreeing to his nomination on the date and at the time of his nomination, whose nomination papers were prepared, in utter disregard of the Election Rules and Laws in a most unfair and fraudulent manner, and whose nominations were not clearly intended for the seat for which he sought election, and some of his nomination papers have subsequently been tampered with with a view to rectify their defects.

6. That respondent No. 1 did not sign the nomination papers in the presence of the person who purported to identify his signatures. The nomination papers have been deliberately outdated and the whole thing is a complete fraud and nomination papers even if signed by him, contravene the provisions of law and that he has declared himself to be a member of a scheduled caste or tribe as a candidate, for the said caste or tribe.

7. That the respondent No. 1 was not qualified rather he was disqualified from seeking election and from setting himself as a candidate or from being set up as a candidate or being a proposer or a seconder. He has also been holding an office of profit, a director of recognised companies.

8. That the Returning Officer also erred in accepting the nomination of the respondent No. 1 against the rules, and laws. The nomination of the respondent No. 1 was not valid and was illegal and *ultra-vires*.

9. That the result of the aforesaid election was further materially affected by the non-compliance of the provisions of the Constitution of India, of the Representation of the Peoples Act 43, of 1952 and of the rules and orders made under the aforesaid Act and other Acts and rules relating to elections.

10. That the aforesaid election was held on 22nd January 1952, 25th January 1952, 28th January 1952 and 31st January 1952 at different polling stations within the aforesaid constituency and the ballot boxes used for holding the aforesaid

election did not only lack the standard and specification laid down in the said Election Rules of 1951 as safeguards against tampering with them and to prevent transferring ballot papers of one candidate from his box to that of another, but were wholly defective as it was clear from their condition as pointed out and acknowledged by the Returning Officer at the time of commencement of the counting of votes.

11. That respondent No. 1 also committed corrupt practices by providing entertainments (a) to the electors and persons employed in the conduct of elections before and during the election and (b) on the counting days and after counting and his actual election expenses were far in excess of those shown by him in his return of election expenses.

12. That on account of the corrupt and illegal practices, breach of rules, violation of all principles and canons of equity, good conscience and natural justice, hooliganism, bribery, undue influence and material irregularities practised and indulged in on a large and extensive scale by the Congress workers and also by the supporters of respondents Nos. 1 and 2 and by the officials under the influence of the Congress the petitioner was made to lose her parliamentary seat in the aforesaid election which she had otherwise won as evident from the overwhelmingly large support that she actually received throughout the aforesaid constituency, and the result of the election as a whole was materially affected on account of the aforesaid causes.

13. That the petitioner herewith encloses with her petition, a Government Treasury Receipt showing that the deposit of Rs. 1,000/- has been made by her in favour of the Secretary to the Election Commission as Security for respondents costs of the petition as required by Section 117 of the Representation of the People Act, 43, of 1951.

That in the aforesaid election to the House of the People from the parliamentary constituency of Hardoi District (North West)—*cum*—Farrukhabad District (East)—*cum*—Shahjahanpur District (South) there were more than one returned candidates and as this election petition calls in question the said election as a whole it is being filed within 60 days [as provided by sub-rule (b) of rule 119] of the time specified in sub-rule (1) of Rule 112 for the lodging of returns of Election Expenses of candidates in the aforesaid election with the Returning Officer.

That the petitioner therefore respectfully prays as follows :—

- (a) That the aforesaid election to the House of People from Hardoi District (North West)—*cum*—Farrukhabad District (East)—*cum*—Shahjahanpur District (South) Parliamentary Constituency be declared null and void as a whole.
- (b) That costs of this petition be awarded to the petitioner.
- (c) That any other relief which may be available to the petitioner, be also granted to her.

शान्ता देवी वैद्या
Petitioner.

Dated 6th June 1952.

Verification:—

I, Smti. Shanta Devi Vaidya, petitioner, do hereby verify that the contents of paragraphs 1 to 5, 6 (a) to (c) and 7 (a) to (g) and 11 of this petition are true to my knowledge, and those of para. 6 (d), 8, and 11 are true to my belief.

Signed this the 6th day of June, 1952 at my residence in Hasanganj Sarai, Lucknow.

शान्ता देवी वैद्या
Petitioner.

Annexure A

List under Section 83(2) of Act 43 of 1951 of full particulars of corrupt and illegal practices as far as they are possible to be furnished.

Bribery

(a) That the Congress and other workers and supporters of respondent No. 1 with his own and his agents connivance arranged for the removal of the ballot papers from the polling stations by the voters and their personators at the various polling stations and their purchase by bribery and for their subsequent deposit in packets of ballot papers in the ballot boxes.

(b) That entertainments to voters were openly provided at the expense of respondent No. 1 to which even the officials on duty were invited at the various polling stations.

(c) That voting at Shahabad polling station was continued up to about 12 P.M. and voters assembled and staying there as also the officials on duty and workers and supporters of respondent No. 1 were entertained, and provided full meals, at the expense of respondent No. 1.

(d) Respondent No. 1 gave substantial gratification to Congress candidates seeking election to provincial legislatures in cash and also by cheques with a view of inducing voters through them to vote for respondent No. 1.

Undue Influence

(a) That respondent No. 1 and his agents, workers and supporters with his connivance directly and indirectly interfered with the free exercise of the electoral right by the voters; who had come to record their votes for the petitioner by seeing that the voters openly known to be for the petitioner were not allowed to enter the polling stations to record their votes.

(b) That police on duty was openly exercising their undue influence canvassing for votes being recorded in favour of the Congress candidates namely respondents Nos. 1 and 2.

(c) That a batch of several hundred voters including female voters was not allowed admission to the polling station until very late in the evening as they were known to be voters for the petitioner with the result that they had to return without recording their votes.

Voting by Personation

There was no indelible ink provided in sufficient quantity for marking the fingers of voters to prevent their recording their votes over again and there was no proper arrangement for identification of voters and none at all for female voters, with the result that many voters voted for voters who had not come to record their votes. Detailed particulars are being collected and shall be furnished later on.

Removal of Ballot Papers from Polling Stations

Many voters whose word given under pressure to vote for the Congress candidates was not believed or whose votes were purchased for respondent No. 1 were required to bring the ballot papers out from the polling station and to deliver them to the agents, supporters and workers of respondent No. 1 who managed to have them placed in the ballot boxes of respondent No. 1 through trusted persons going in to record their votes.

Providing hired conveyances to voters

A large number of motor cars including jeeps and station wagons were hired or procured for conveyance of voters to and from polling stations, a report of an instance of bringing voters for respondent No. 1 to polling station was made at polling station Bawan, and a number of photos also were taken of his electors being brought by hired conveyances, which are being collected, particulars whereof shall be submitted later on.

Unauthorised expenditure

Respondent No. 1 incurred large amounts of expenditure for bribing voters and other persons to secure votes for the exercise of undue influence to secure voting by personation for removal of ballot papers from polling stations for securing votes, and providing hired conveyance to electors, and entertainment of officials to secure their assistance.

That the return of election expenses made and filed by respondent No. 1 who was his own election agent is false in material particulars and his declaration verifying the same is false.

(a) The expenses incurred in having the form of nomination papers sent to respondent No. 1 outside India and his return of the same, if any, are not shown in the return.

(b) The large amount of expenses incurred by wife of respondent No. 1 over the election campaign accompanied by her fellow worker, the amount of rents paid for buildings used as offices at various places for the use of dak bungalows and hotels for stays in connection with elections, payments made to provincial legislature candidates and secure votes for respondent No. 1 and complete expenditure on publicity are not shown in the return.

Further details of particulars shall be submitted later on after a detailed examination of copy of the return when the same is supplied to the petitioner, who has already applied for it.

Tampering of Ballot Boxes

The condition of the ballot boxes was as follows, as will appear from a perusal of the petitioner's applications made to the returning officer and the orders passed thereon by him at the time of commencement of counting. The petitioner shall call for the producing of the said application and orders before the Election Tribunal along with her all other documents.

Details of the Conditions of the Ballot Boxes

(a) That 6851 ballot boxes were collected at Hardoi, besides 1066, at Shahjahanpur, and 416 at Kannauj for counting, which commenced on 12th and was concluded on 20th of February 1952 at Hardoi for the boxes collected there.

(b) That of less than 1000 ballot boxes taken up for counting on 12th February, 1952 at Hardoi only, as many as 163 ballot boxes of only the petitioner (over 100 boxes) and respondent No. 1 (about 50 boxes) and some for respondent No. 2 were found open without any seals. Your petitioner submits that the ballot papers were transferred from her boxes to the boxes of respondents No. 1 and No. 2 and similarly tampered boxes of remaining lot must have been sealed during the interval between the counting on 12th and 13th February 1952.

(c) Several ballot boxes were, on being lifted by their handles by Shri Abdulla and Magan Bihari to be taken to the counting table, opened of themselves and their ballot papers came out whereon the agent of Zaidi rebuked Abdulla and Magan Bihari and directed them to lift the boxes by their body and not by their handles. This was done with a view to prevent disclosure of the true condition of the boxes due to tampering with them.

(d) That those ballot boxes which had seals on could be easily opened without impairing the seals and this fact was demonstrated to the Returning Officer on the spot.

(e) That the aforesaid ballot boxes were manufactured at different places and the ballot boxes could be easily opened and tampered with, for transferring petitioner's ballot papers to the ballot boxes of respondents Nos. 1 and 2 and as a matter of fact the boxes were tampered with with the said object and the result of the election was materially affected.

(f) That after the polling the aforesaid ballot boxes were not properly taken care of, in so far as no suitable arrangements were made for their safe custody, immediately after the polling had closed and during their time of their being kept at various places and during their transport, and in some cases they were kept in charge of police constables at different police stations and no official of the Election Office was made responsible for their safe custody and when they were brought to the headquarters again kept at places which were accessible to persons interested in the result of the aforesaid election.

(g) That the ballot boxes brought to Hardoi poured in from various polling stations in that district on the conclusion of polling on 31st January 1952 upto 3rd February 1952 and the boxes lay in the Kshatriya College Hall, without its being locked, upto 6th February 1952. The hall was locked on 7th February 1952 and the key was left with constables on duty and the hall was frequently opened by the constables for keeping their beddings, clothes and for their sleeping therein. Besides constables, Congress workers alone who were interested in respondents Nos. 1 and 2 had free accessing to the hall.

(h) Ballot boxes of Shahjahanpur and Farrukhabad Districts (part of the Constituency) were not brought to Hardoi, for counting in the presence of the Returning Officer who stayed throughout at Hardoi.

(i) The petitioner's agent was refused admission to counting at Kannauj.

Irregularities

That the numerous irregularities were also committed by the Returning Officer, Presiding Officers and Polling Officers at the aforesaid elections, which vitiated the election of respondents Nos. 1 and 2.

(a) That the counting of votes was not done at one centre for the whole constituency and the Returning Officer was not present at the counting at Shahjahanpur and Kannauj.

(b) That packets mostly of 3 to 10 found folded together on the opening of ballot boxes of respondent No. 1 were treated as valid and included in counting and were not counted separately. The fact of the ballot papers being found so folded together was evidence of the fact that ballot papers had been removed from the polling stations during polling hours by some persons with the connivance of the candidate or his agents and were subsequently collected by preaching, bribery and for undue influence and were got placed in the ballot boxes of respondent No. 1.

(c) That as counting of votes was done by as many as about 100 persons at a time on about twenty tables, and it was physically impossible for one counting agent of a candidate to watch the counting and point out all the irregularities relating to all the boxes and their contents, and in counting.

(d) That at several polling stations no proper counting of unused ballot papers was done at the close of the polling as enjoined by rules.

(e) That at several polling stations there was no indelible ink available and as a consequence the rule requiring an indelible mark to be put on a voter's left fore-finger was infringed, personation by voters was extensively practised and at such polling stations no suitable arrangement for identification of electors and particularly of female voters were made.

Further fuller particulars on all the above corrupt and illegal practices and irregularities are being collected and the same shall be submitted later on.

शान्ता देवी ५५१

Petitioner.

Verification—

I, Shanta Devi Valdia, petitioner do hereby verify that the contents of paragraphs of this Annexure A, List of Particulars of corrupt and illegal practices are true to my knowledge.

Signed this the 6th day of June, 1952 at my residence in Hasanganj Sarai, Lucknow.

शान्ता देवी वैद्या

Petitioner.

P. S. SUBRAMANIAN,
for Chief Election Commissioner.